HOUSE BILL No. 4787

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May 29, 2013, Introduced by Rep. Lori and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending section 20161 (MCL 333.20161), as amended by 2011 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20161. (1) The department shall assess fees and other
2 assessments for health facility and agency licenses and
3 certificates of need on an annual basis as provided in this
4 article. Except as otherwise provided in this article, fees and
5 assessments shall be paid ~~in accordance with~~ **AS PROVIDED IN** the
6 following schedule:

7 (a) Freestanding surgical
8 outpatient facilities................$238.00 per facility.
9 (b) Hospitals...................$8.28 per licensed bed.

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1 (c) Nursing homes, county
2 medical care facilities, and
3 hospital long-term care units........$2.20 per licensed bed.
4 (d) Homes for the aged..........$6.27 per licensed bed.
5 (e) Clinical laboratories.......$475.00 per laboratory.
6 (f) Hospice residences..........$200.00 per license
7 survey; and $20.00 per
8 licensed bed.
9 (g) Subject to subsection
10 (13), quality assurance assessment
11 for nursing homes and hospital
12 long-term care units.................an amount resulting
13 in not more than 6%
14 of total industry
15 revenues.
16 (h) Subject to subsection
17 (14), quality assurance assessment
18 for hospitals.......................at a fixed or variable
19 rate that generates
20 funds not more than the
21 maximum allowable under
22 the federal matching
23 requirements, after
24 consideration for the
25 amounts in subsection
26 (14)(a) and (i).

27 (2) If a hospital requests the department to conduct a
28 certification survey for purposes of title XVIII or title XIX of
29 the social security act, the hospital shall pay a license fee
30 surcharge of $23.00 per bed. As used in this subsection, "title

1 XVIII" and "title XIX" mean those terms as defined in section
2 20155.
3 (3) **ALL OF THE FOLLOWING APPLY TO THE ASSESSMENT UNDER THIS**
4 **SECTION FOR CERTIFICATES OF NEED:**
5 **(A)** The base fee for a certificate of need is ~~$1,500.00~~
6 **$3,000.00** for each application. For a project requiring a
7 projected capital expenditure of more than $500,000.00 but less
8 than $4,000,000.00, an additional fee of ~~$4,000.00 shall be~~
9 **$5,000.00 IS** added to the base fee. For a project requiring a
10 projected capital expenditure of $4,000,000.00 or more **BUT LESS**
11 **THAN $10,000,000.00**, an additional fee of ~~$7,000.00 shall be~~
12 **$8,000.00 IS** added to the base fee. **FOR A PROJECT REQUIRING A**
13 **PROJECTED CAPITAL EXPENDITURE OF $10,000,000.00 OR MORE, AN**
14 **ADDITIONAL FEE OF $12,000.00 IS ADDED TO THE BASE FEE.**
15 **(B) IN ADDITION TO THE FEES UNDER SUBDIVISION (A), THE**
16 **APPLICANT SHALL PAY $3,000.00 FOR ANY DESIGNATED COMPLEX PROJECT**
17 **INCLUDING A PROJECT SCHEDULED FOR COMPARATIVE REVIEW OR FOR A**
18 **CONSOLIDATED LICENSED HEALTH FACILITY APPLICATION FOR ACQUISITION**
19 **OR REPLACEMENT.**
20 **(C) IF REQUIRED BY THE DEPARTMENT, THE APPLICANT SHALL PAY**
21 **$1,000.00 FOR A CERTIFICATE OF NEED APPLICATION THAT RECEIVES**
22 **EXPEDITED PROCESSING AT THE REQUEST OF THE APPLICANT.**
23 **(D) THE DEPARTMENT SHALL CHARGE A FEE OF $500.00 TO REVIEW**
24 **ANY LETTER OF INTENT REQUESTING OR RESULTING IN A WAIVER FROM**
25 **CERTIFICATE OF NEED REVIEW AND ANY AMENDMENT REQUEST TO AN**
26 **APPROVED CERTIFICATE OF NEED.**
27 **(E) A HEALTH FACILITY OR AGENCY THAT OFFERS CERTIFICATE OF**

1 **NEED COVERED CLINICAL SERVICES SHALL PAY $100.00 FOR EACH**
2 **CERTIFICATE OF NEED APPROVED COVERED CLINICAL SERVICE AS PART OF**
3 **THE CERTIFICATE OF NEED ANNUAL SURVEY AT THE TIME OF SUBMISSION**
4 **OF THE SURVEY DATA.**
5 **(F) THE DEPARTMENT SHALL ADJUST THE AMOUNT OF THE FEES**
6 **PRESCRIBED IN SUBDIVISIONS (A) TO (E) ANNUALLY BY AN AMOUNT**
7 **DETERMINED BY THE STATE TREASURER TO REFLECT THE CUMULATIVE**
8 **ANNUAL PERCENTAGE CHANGE IN THE DETROIT CONSUMER PRICE INDEX. AS**
9 **USED IN THIS SUBDIVISION, "DETROIT CONSUMER PRICE INDEX" MEANS**
10 **THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE**
11 **DETROIT AREA FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED**
12 **STATES DEPARTMENT OF LABOR.**
13 **(G)** The department of community health shall use the fees
14 collected under this subsection only to fund the certificate of
15 need program. Funds remaining in the certificate of need program
16 at the end of the fiscal year shall not lapse to the general fund
17 but shall remain available to fund the certificate of need
18 program in subsequent years.
19 (4) If licensure is for more than 1 year, the fees described
20 in subsection (1) are multiplied by the number of years for which
21 the license is issued, and the total amount of the fees shall be
22 collected in the year in which the license is issued.
23 (5) Fees described in this section are payable to the
24 department at the time an application for a license, permit, or
25 certificate is submitted. If an application for a license,
26 permit, or certificate is denied or if a license, permit, or
27 certificate is revoked before its expiration date, the department

1 shall not refund fees paid to the department.
2 (6) The fee for a provisional license or temporary permit is
3 the same as for a license. A license may be issued at the
4 expiration date of a temporary permit without an additional fee
5 for the balance of the period for which the fee was paid if the
6 requirements for licensure are met.
7 (7) The department may charge a fee to recover the cost of
8 purchase or production and distribution of proficiency evaluation
9 samples that are supplied to clinical laboratories ~~pursuant to~~
10 **UNDER** section 20521(3).
11 (8) In addition to the fees imposed under subsection (1), a
12 clinical laboratory shall submit a fee of $25.00 to the
13 department for each reissuance during the licensure period of the
14 clinical laboratory's license.
15 (9) The cost of licensure activities shall be supported by
16 license fees.
17 (10) The application fee for a waiver under section 21564 is
18 $200.00 plus $40.00 per hour for the professional services and
19 travel expenses directly related to processing the application.
20 The travel expenses shall be calculated in accordance with the
21 state standardized travel regulations of the department of
22 technology, management, and budget in effect at the time of the
23 travel.
24 (11) An applicant for licensure or renewal of licensure
25 under part 209 shall pay the applicable fees set forth in part
26 209.
27 (12) Except as otherwise provided in this section, the fees

1 and assessments collected under this section shall be deposited
2 in the state treasury, to the credit of the general fund. The
3 department may use the unreserved fund balance in fees and
4 assessments for the criminal history check program required under
5 this article.
6 (13) The quality assurance assessment collected under
7 subsection (1)(g) and all federal matching funds attributed to
8 that assessment shall be used only for the following purposes and
9 under the following specific circumstances:
10 (a) The quality assurance assessment and all federal
11 matching funds attributed to that assessment shall be used to
12 finance medicaid nursing home reimbursement payments. Only
13 licensed nursing homes and hospital long-term care units that are
14 assessed the quality assurance assessment and participate in the
15 medicaid program are eligible for increased per diem medicaid
16 reimbursement rates under this subdivision. A nursing home or
17 long-term care unit that is assessed the quality assurance
18 assessment and that does not pay the assessment required under
19 subsection (1)(g) in accordance with subdivision (c)(*i*) or in
20 accordance with a written payment agreement with the state shall
21 not receive the increased per diem medicaid reimbursement rates
22 under this subdivision until all of its outstanding quality
23 assurance assessments and any penalties assessed pursuant to
24 subdivision (f) have been paid in full. Nothing in this
25 subdivision shall be construed to authorize or require the
26 department to overspend tax revenue in violation of the
27 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

1 (b) Except as otherwise provided under subdivision (c),
2 beginning October 1, 2005, the quality assurance assessment is
3 based on the total number of patient days of care each nursing
4 home and hospital long-term care unit provided to nonmedicare
5 patients within the immediately preceding year and shall be
6 assessed at a uniform rate on October 1, 2005 and subsequently on
7 October 1 of each following year, and is payable on a quarterly
8 basis, the first payment due 90 days after the date the
9 assessment is assessed.
10 (c) Within 30 days after September 30, 2005, the department
11 shall submit an application to the federal centers for medicare
12 and medicaid services to request a waiver pursuant to 42 CFR
13 433.68(e) to implement this subdivision as follows:
14 (*i*) If the waiver is approved, the quality assurance
15 assessment rate for a nursing home or hospital long-term care
16 unit with less than 40 licensed beds or with the maximum number,
17 or more than the maximum number, of licensed beds necessary to
18 secure federal approval of the application is $2.00 per
19 nonmedicare patient day of care provided within the immediately
20 preceding year or a rate as otherwise altered on the application
21 for the waiver to obtain federal approval. If the waiver is
22 approved, for all other nursing homes and long-term care units
23 the quality assurance assessment rate is to be calculated by
24 dividing the total statewide maximum allowable assessment
25 permitted under subsection (1)(g) less the total amount to be
26 paid by the nursing homes and long-term care units with less than
27 40 or with the maximum number, or more than the maximum number,

1 of licensed beds necessary to secure federal approval of the
2 application by the total number of nonmedicare patient days of
3 care provided within the immediately preceding year by those
4 nursing homes and long-term care units with more than 39, but
5 less than the maximum number of licensed beds necessary to secure
6 federal approval. The quality assurance assessment, as provided
7 under this subparagraph, shall be assessed in the first quarter
8 after federal approval of the waiver and shall be subsequently
9 assessed on October 1 of each following year, and is payable on a
10 quarterly basis, the first payment due 90 days after the date the
11 assessment is assessed.

12 (*ii*) If the waiver is approved, continuing care retirement
13 centers are exempt from the quality assurance assessment if the
14 continuing care retirement center requires each center resident
15 to provide an initial life interest payment of $150,000.00, on
16 average, per resident to ensure payment for that resident's
17 residency and services and the continuing care retirement center
18 utilizes all of the initial life interest payment before the
19 resident becomes eligible for medical assistance under the
20 state's medicaid plan. As used in this subparagraph, "continuing
21 care retirement center" means a nursing care facility that
22 provides independent living services, assisted living services,
23 and nursing care and medical treatment services, in a campus-like
24 setting that has shared facilities or common areas, or both.

25 (d) Beginning May 10, 2002, the department of community
26 health shall increase the per diem nursing home medicaid
27 reimbursement rates for the balance of that year. For each

1 subsequent year in which the quality assurance assessment is
2 assessed and collected, the department of community health shall
3 maintain the medicaid nursing home reimbursement payment increase
4 financed by the quality assurance assessment.
5 (e) The department of community health shall implement this
6 section in a manner that complies with federal requirements
7 necessary to assure that the quality assurance assessment
8 qualifies for federal matching funds.
9 (f) If a nursing home or a hospital long-term care unit
10 fails to pay the assessment required by subsection (1)(g), the
11 department of community health may assess the nursing home or
12 hospital long-term care unit a penalty of 5% of the assessment
13 for each month that the assessment and penalty are not paid up to
14 a maximum of 50% of the assessment. The department of community
15 health may also refer for collection to the department of
16 treasury past due amounts consistent with section 13 of 1941 PA
17 122, MCL 205.13.
18 (g) The medicaid nursing home quality assurance assessment
19 fund is established in the state treasury. The department of
20 community health shall deposit the revenue raised through the
21 quality assurance assessment with the state treasurer for deposit
22 in the medicaid nursing home quality assurance assessment fund.
23 (h) The department of community health shall not implement
24 this subsection in a manner that conflicts with 42 USC 1396b(w).
25 (i) The quality assurance assessment collected under
26 subsection (1)(g) shall be prorated on a quarterly basis for any
27 licensed beds added to or subtracted from a nursing home or

1 hospital long-term care unit since the immediately preceding July
2 1. Any adjustments in payments are due on the next quarterly
3 installment due date.
4 (j) In each fiscal year governed by this subsection,
5 medicaid reimbursement rates shall not be reduced below the
6 medicaid reimbursement rates in effect on April 1, 2002 as a
7 direct result of the quality assurance assessment collected under
8 subsection (1)(g).
9 (k) The state retention amount of the quality assurance
10 assessment collected pursuant to subsection (1)(g) shall be equal
11 to 13.2% of the federal funds generated by the nursing homes and
12 hospital long-term care units quality assurance assessment,
13 including the state retention amount. The state retention amount
14 shall be appropriated each fiscal year to the department of
15 community health to support medicaid expenditures for long-term
16 care services. These funds shall offset an identical amount of
17 general fund/general purpose revenue originally appropriated for
18 that purpose.
19 (*l*) Beginning October 1, 2015, the department shall no longer
20 assess or collect the quality assurance assessment or apply for
21 federal matching funds. The quality assurance assessment
22 collected under subsection (1)(g) shall no longer be assessed or
23 collected after September 30, 2011, in the event that the quality
24 assurance assessment is not eligible for federal matching funds.
25 Any portion of the quality assurance assessment collected from a
26 nursing home or hospital long-term care unit that is not eligible
27 for federal matching funds shall be returned to the nursing home

1 or hospital long-term care unit.
2 (14) The quality assurance dedication is an earmarked
3 assessment collected under subsection (1)(h). That assessment and
4 all federal matching funds attributed to that assessment shall be
5 used only for the following purpose and under the following
6 specific circumstances:
7 (a) To maintain the increased medicaid reimbursement rate
8 increases as provided for in subdivision (c).
9 (b) The quality assurance assessment shall be assessed on
10 all net patient revenue, before deduction of expenses, less
11 medicare net revenue, as reported in the most recently available
12 medicare cost report and is payable on a quarterly basis, the
13 first payment due 90 days after the date the assessment is
14 assessed. As used in this subdivision, "medicare net revenue"
15 includes medicare payments and amounts collected for coinsurance
16 and deductibles.
17 (c) Beginning October 1, 2002, the department of community
18 health shall increase the hospital medicaid reimbursement rates
19 for the balance of that year. For each subsequent year in which
20 the quality assurance assessment is assessed and collected, the
21 department of community health shall maintain the hospital
22 medicaid reimbursement rate increase financed by the quality
23 assurance assessments.
24 (d) The department of community health shall implement this
25 section in a manner that complies with federal requirements
26 necessary to assure that the quality assurance assessment
27 qualifies for federal matching funds.

(e) If a hospital fails to pay the assessment required by subsection (1)(h), the department of community health may assess the hospital a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(f) The hospital quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the hospital quality assurance assessment fund.

(g) In each fiscal year governed by this subsection, the quality assurance assessment shall only be collected and expended if medicaid hospital inpatient DRG and outpatient reimbursement rates and disproportionate share hospital and graduate medical education payments are not below the level of rates and payments in effect on April 1, 2002 as a direct result of the quality assurance assessment collected under subsection (1)(h), except as provided in subdivision (h).

(h) The quality assurance assessment collected under subsection (1)(h) shall no longer be assessed or collected after September 30, 2011 in the event that the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a hospital that is not eligible for federal matching funds shall be returned to the hospital.

1 (i) The state retention amount of the quality assurance
2 assessment collected pursuant to subsection (1)(h) shall be equal
3 to 13.2% of the federal funds generated by the hospital quality
4 assurance assessment, including the state retention amount. The
5 state retention percentage shall be applied proportionately to
6 each hospital quality assurance assessment program to determine
7 the retention amount for each program. The state retention amount
8 shall be appropriated each fiscal year to the department of
9 community health to support medicaid expenditures for hospital
10 services and therapy. These funds shall offset an identical
11 amount of general fund/general purpose revenue originally
12 appropriated for that purpose.
13 (15) The quality assurance assessment provided for under
14 this section is a tax that is levied on a health facility or
15 agency.
16 (16) As used in this section, "medicaid" means that term as
17 defined in section 22207.